

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MARIA GUZMAN MORALES &	)	
MAURICIO R. GUAJARDO, &	)	
On behalf of themselves and all other	)	
similarly situated individuals,	)	
	)	
Plaintiffs,	)	CASE NO. 8:08-cv-504
	)	
v.	)	
	)	
FARMLAND FOODS, INC., a Delaware	)	
Corporation and subsidiary of	)	
Smithfield Foods,	)	
	)	
Defendant.	)	

**ORDER**

The parties having filed the Joint Stipulation for Conditional Certification and Notice Under 29 U.S.C. § 216(b) (Doc. No. 80), and the Court having found that it is in the interest of justice and judicial economy, it is hereby ORDERED:

1.

That the following class shall be conditionally certified (hereinafter the "Class"):

ALL CURRENT AND FORMER NON-EXEMPT PRODUCTION EMPLOYEES (EXCEPT AS PROVIDED IN PARAGRAPH 2 BELOW) WHO HAVE BEEN EMPLOYED AT ANY TIME BETWEEN AUGUST 21, 2006 AND THE PRESENT BY FARMLAND FOODS, INC. AT ITS HOG PROCESSING FACILITY IN CRETE, NEBRASKA, WHO USE OR USED PERSONAL PROTECTIVE EQUIPMENT, AND WERE PAID ON A GANG-TIME COMPENSATION SYSTEM, AS WELL AS NON-EXEMPT PRODUCTION EMPLOYEES WHO HAVE BEEN EMPLOYED IN ONE OF THE FOLLOWING DEPARTMENTS, BETWEEN AUGUST 21, 2006 AND THE PRESENT, IF THEY USE OR USED PERSONAL PROTECTIVE EQUIPMENT, REGARDLESS OF THEIR TYPE OF COMPENSATION SYSTEM:

- Kill

- Scald (Beginning with the Sticker)
- Cut
- Loins
- Picnics
- Ham Bone
- JBO
- Bacon
- Chop Shop
- Cryovac (Case Ready)
- Smoked Meats
- Cure
- Sausage
- Trim Blend
- Night Bacon
- Night Chops
- Night Cryovac
- Night Cure
- Night Ham Bone
- Night Loins
- Night Precook Sausage
- Night Ribco
- Night Sausage
- Night Smoked Meat
- Night Trim Blend

2.

That the individuals in the departments identified above who performed only the following “support” jobs during the relevant time period shall not be included in the Class:

- Janitors classified in the following departments: Bacon, Night Bacon, Boning, Chop Shop, Night Chop Shop, Fab Loins, Night Fab Loins, Fab Picnics, Sausage, Night Sausage, Smoke Meats, Night Smoked Meats and JBO (also known as Special Fab)
- Wash Pens
- Tree Wash
- Vat Wash
- Palletizer/APC
- Labelers
- Strappers
- Scale Box Data Workers
- Ice Loin Bander/Ice Product

- Data/print/stack/strap
- Strap and Freeze Box
- Scales
- Forklift Operators
- Mule Drivers
- Tattoo Hogs
- Doctor Helper
- Drive Hogs
- Shacklers
- Trolley Room
- Drive Process Slow Hog
- Hog Downer Helper

3.

That in order to facilitate notice to the Class members:

- a. Within five (5) business days from the date of this Order, the parties will confer regarding a proposed Notice form, and seek Court approval thereof.
- b. Within five (5) business days from the date of an Order approving a Notice form, Defendant Farmland Foods, Inc. shall deliver to Plaintiffs' counsel in a usable electronic format the last known names, addresses and telephone numbers of the persons in the Class.
- c. Within five (5) business days from the date of delivery by Defendant of the class list to Plaintiffs' counsel, Plaintiffs shall cause to be mailed, at their sole expense, the approved Notice and Consent form to the Class and shall include a self-addressed, stamped envelope. Plaintiffs may employ a third-party administrator for this task.
- d. Any member of the Class shall have 120 days from the date of mailing of the Notice and Consent form to return a postmarked copy of the consent form to Plaintiffs' counsel (or the third-party administrator) for filing. Consents will be deemed to be

filed on the day they are stamped as received by either Plaintiffs' counsel or the administrator if they are filed with the Court within five (5) business days thereafter; otherwise, the date on which they are actually filed with the clerk will be the effective date of filing. All consents must be filed with the Court no more than 130 days from such date of mailing of notice.

- e. Plaintiffs' counsel will provide notice to both the Court and Defendant that the Notice and Consent forms have been mailed, within three (3) days from the date of mailing.

SO ORDERED.

DAED this 4<sup>th</sup> day of September, 2009.

**s/ Joseph F. Bataillon**  
CHIEF DISTRICT COURT JUDGE

Proposed by: <u>/s/ L. Dale Owens</u> L. Dale Owens, Esq. Admitted <i>Pro Hac Vice</i> Jackson Lewis LLP 1155 Peachtree Street, NE, Suite 1000 Atlanta, GA 30309-3600 Tel: (404) 525-8200 Fax: (404) 525-1173 owensd@jacksonlewis.com ATTORNEY FOR DEFENDANT	Approved by: <u>/s/ Shanon J. Carson</u> Shanon J. Carson Admitted <i>Pro Hac Vice</i> Berger, Montague Law Firm 1622 Locust Street Pennsylvania, PA 19103 Tel: (215) 875-4656 Fax: (215) 875-4604 scarson@bm.net ATTORNEY FOR PLAINTIFFS
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